air service program and rural air safety programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. DODD, and Mr. JEFFORDS):

S. 1400. A bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. FAIRCLOTH):

S. 1397. A bill to provide for State control over fair housing matters, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE KYL-FAIRCLOTH STATE FAIR HOUSING LAWS RECOGNITION ACT OF 1995

Mr. KYL. Mr. President, I rise to introduce the Kyl-Faircloth State Fair Housing Laws Recognition Act of 1995. I thank Senator FAIRCLOTH for his cosponsorship of this bill, and his leadership in States rights issues. I am pleased to introduce this amendment which will prohibit the Department of Housing and Urban Development [HUD] from enforcing a complaint of discrimination on the basis of a housing provider's occupancy standard, and thereby transferring from HUD to the States and localities the authority to set occupancy standards.

Mr. President, an occupancy standard specifies the number of people who may live in a residential rental unit. In July of this year, HUD general counsel Nelson Diaz issued a memorandum which, in effect, supplants the traditional two-per-bedroom occupancy standard, and may force housing owners to accept six, seven, eight, or even nine people in a two-bedroom apartment. HUD should not be establishing national occupancy standards.

HUD was created in 1965 with the best of intentions: To build and fund housing for the poor. But the agency's regulations have gone far beyond the scope of that intent. Housing is first and foremost a local issue. The Federal Government should play a limited role in it. State officials are closer to the situation and can tailor standards to meet the needs of their communities.

HUD has accepted a two-per-bedroom standard as reasonable in enforcing fair housing discrimination laws under the Fair Housing Act. Most public housing units subscribe to that standard. That is, until Henry Cisneros became Secretary of HUD. Secretary Cisneros and his then Deputy, Roberta Achtenberg, disagreed with the traditional occupancy standard, arguing that it discriminates against larger families.

The new HUD standard is without factual foundation. Mr. Diaz has used the Building Officials and Code Administrators [BOCA] Property Maintenance Code as a foundation for his occupancy standard. The BOCA code, however, is a health and safely code specifically drafted by engineers and architects to provide guidance to municipalities on the maximum number of individuals who may safety occupy any building. It was never intended to alter the minimum number of family members HUD could require owners to accept under fair housing law.

The code was adopted without any consultation, public hearings, or analysis of its impact on the Nation's rental housing industries. That is wrong. Secretary Cisneros, through HUD's general counsel, has circumvented the Federal Government's rulemaking process by imposing this standard through an advisory without public hearings.

Mr. President, the Manufactured Housing Institute, Arizona Association of Homes and Housing for the Aging, and the Arizona Multihousing Association endorse the bill. Arizona Gov. Fife Symington, speaker of the Arizona House of Representatives Mark Killian, and president of the Arizona Senate John Greene have sent me a letter in support of this bill. I ask unanimous consent that their letter be printed in the RECORD.

States and localities should establish occupancy standards, not a Federal bureaucracy. Several States have an occupancy standard including my own home State, Arizona. And it has worked well. It is time we begin returning a certain amount of authority back to the States. Public housing laws are a good place to start. That is why I introduce this bill which blocks HUD's attempt to set a national occupancy standard, and transfers that authority to the States and cities. I urge my colleagues to cosponsor this bill. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION OF STATE FAIR HOUSING LAWS.

(a) AMENDMENT OF FAIR HOUSING ACT.—Section 807(b)(1) of the Fair Housing Act (42 U.S.C. 3607(b)(1)) is amended—

(1) by striking ''(b)(1) Nothing'' and inserting ''(b)(1)(A) Nothing''; and

(2) by adding at the end the following:

''(B) A State law regarding the number of occupants permitted to occupy a dwelling—

''(i) shall be presumptively reasonable for the purposes of determining familial status discrimination in residential rental housing; and

''(ii) shall not form the basis of any action by the Secretary to withdraw equivalency status from any State, locality, or agency.

''(C) The Secretary shall not establish a de jure or de facto national occupancy code.

''(D) Each State, locality, or agency with HUD equivalency status shall have complete and final control over fair housing cases involving occupancy standards within its jurisdiction without the intervention of the Secretary.''.

(b) ENFORCEMENT.—Notwithstanding any other provision of this Act, no funds shall be available to the Department of Housing and Urban Development under this Act to carry out the Fair Housing Act unless the Department complies with the amendment made by subsection (a).

SEC. 2. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply to cases filed on or after December 31, 1995.

ARIZONA STATE LEGISLATURE,
Phoenix, AZ, October 16, 1995.

Hon. JOHN KYL,
U.S. Senate,
Russell Building,
Washington, DC.

DEAR SENATOR KYL: Thank you for your prompt and decisive action regarding the issue of federal intervention in the area of occupancy standards as outlined in our joint letter of August 15, 1995. As you know, the issue has been a very divisive one in Arizona, and has now spread to other states nationwide.

We believe that your proposed legislation will resolve the issue by reaffirming the right of each state to set standards that it deems most appropriate. We especially applaud your requirement that HUD shall not establish a national occupancy standard, but defer to authorized state agencies in the administration of cases involving occupancy standards.

We fully support your legislation and by this letter have notified other Members of the Arizona delegation of our support. We appreciate your leadership on this issue and compliment your excellent staff for their work on the bill. If we may assist you in any way to promote the passage of this legislation, please let us know.

Sincerely,

FIFE SYMINGTON,
Governor, State of Arizona.
JOHN GREENE,
President, Arizona Senate.
MARK W. KILLIAN,
Speaker, Arizona House of Representatives.

By Mr. BREAUX (for himself and Mr. BROWN):

S. 1398. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

FEDERAL CRIME PENALTIES LEGISLATION

● Mr. BREAUX. Mr. President, I was honestly shocked to learn of the huge difference that exists between the Federal penalties for trafficking powder cocaine and for trafficking the exact same amount of crack cocaine.

Right now, selling 5 grams of crack cocaine results in the same 5-year mandatory minimum prison term as selling 500 grams of powder cocaine. Selling 50 grams of crack cocaine gets you a 10-year minimum sentence, while you'd have to sell 5,000 grams of powder cocaine to get the same 10 years in prison.

While these penalties are vastly different—100 times greater if you sell crack cocaine—the damage caused by these criminal acts are the same. Lives are lost, families are destroyed, careers are ruined, and our Nation itself is seriously threatened.

Tough penalties are necessary to send a clear signal that the United States will not tolerate selling illegal drugs. The answer to the problem presented by this wide difference in penalties is not to lower penalties for selling crack cocaine but to increase the penalties for selling powder cocaine.

Therefore, my legislation is very simple and very clear. Trafficking—that is the manufacture, distribution or sale—of 50 grams of powder cocaine will result in a 10-year minimum sentence—the same as dealing in crack cocaine.

Manufacture, distribution or sale of 5 grams of powder cocaine will result in a 5-year minimum sentence—the same as dealing in crack cocaine.

I'm pleased that Senator HANK BROWN of Colorado has joined me as a principle cosponsor of this important legislation.●

By Mr. DORGAN (for himself, Mr. EXON, Mr. ROCKEFELLER, Mr. KERREY, and Mr. CONRAD):

S. 1399. A bill to amend title 49, United States Code, to ensure funding for essential air service program and rural air safety programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE RURAL AIR SERVICE SURVIVAL ACT

● Mr. DORGAN. Mr. President, today I am introducing legislation that will help preserve air service in rural areas and save the Essential Air Service [EAS] Program for the future. I am pleased that my colleagues Senator EXON and Senator ROCKEFELLER are joining me as original cosponsors of the Rural Air Service Survival Act.

Last week, the Senate passed the conference report for the Transportation appropriations bill which cut the EAS Program by one-third, reducing appropriations from $33 million in fiscal year 1995 to $22 million in fiscal year 1996. Under these reductions, dozens of communities will experience reductions in air service. As my colleagues understand, the EAS Program provides support to maintain air service in remote rural communities that would have no air service at all. EAS is a critical program that plays an essential role in the economic viability for many rural communities. It is also an indispensable component to our national transportation system, connecting remote rural areas with hub airports. If the EAS Program is terminated—as some in the Congress and in the administration have proposed—then dozens of rural communities will lose the only air service available to them. In the grand scheme of things, the EAS Program does not amount to a lot of money, but to the over 60 rural communities dependent upon EAS, it determines the very survival of air service.

When the airline industry was deregulated, the EAS Program was established as a means to ensure rural areas continue to have air service. In several rural communities in North Dakota, EAS support is the only means to maintaining some kind of air service. These communities are at least 100 miles from the nearest airport which offers jet service.

Over the past few years, the only constant in the EAS Program has been funding cuts. Each year, the administration proposes to eliminate EAS and those of us who understand the critical importance of this program are forced to fight for funding. The dramatic cuts for fiscal year 1996 should be a sign that the current budget process is not working for EAS and without the establishment of a permanent financing mechanism, the future is too uncertain for the rural communities that rely upon EAS support.

This legislation that would provide a permanent financing mechanism for the EAS Program. It seems to me that the EAS Program ought to be removed from annual appropriations battles and be given more secure financing. Looking at the trend over the past few year, it is unrealistic for anyone to expect the EAS Program to last very long unless we develop a new financing mechanism to sustain the program.

Under this legislation, a 10-cent fee would be imposed on every enplanement. The revenue raised would fund the EAS Program. The legislation would ensure that any administrative cost to carriers in collecting this small fee would be reimbursed. Any unobligated funds would be used to enhance the airport improvement program, directing that any excess funds be made available for small community airports for maintenance projects.

This legislation would assure passengers and the industry that this financing mechanism will only be used for its intended purpose. The price of a dime will ensure that all areas of our country are accessible by air travel. It seems to me that we need to work to restructure the EAS Program and save air service in rural areas and this approach would provide a solution protected from annual Washington budget battles.

I realize that given the present budget situation, those of us who really care about programs like EAS have to think of new solutions. We cannot continue to put new wine into old wineskins. We need to develop new financing mechanisms and make the most of limited Federal funding.

Our transportation system in this country is vital to our economic health and national security. It is of critical importance that, despite tight budgets, we finds ways to maintain a truly national transportation system that links every region and State in the union. That is why we need to save the EAS Program and establish its own financing mechanism.

It seems to me that we need to make some changes in aviation policy in this country and stop ignoring the fact that rural regions are suffering a serious decline in air service. The airline industry has undergone many changes since deregulation in the early 1980's. The invisible hand of competition replaced the assuring hand of Government in the aviation market place. As a result, some areas of the country have seen lower prices and more choices in service. In other parts of the country, namely in rural areas, we have seen dramatic losses in air service and higher prices.

It is my view that our Nation's small communities, especially in rural areas, have not fared well under deregulation: One hundred sixty-seven nonhub communities have lost all air service since 1978 while only 26 have gained new services. Several hundred more have had jet service replaced by high-cost turboprop or piston aircraft. The result for small communities has been a deterioration of the quality of service an increase in prices.

The legislation will secure a reliable source of financing for the EAS Program. The EAS Program is essential to our Nation's national transportation system and this legislation will ensure that this program continues. The legislation has been endorsed by Communicating for Agriculture.

I urge my colleagues to support this legislation and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Air Service Survival Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) air service in rural areas is essential to a national transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) the essential air service program under the Department of Transportation—

(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

(B) is necessary for the economic growth and development of rural communities;

(C) is a critical component of the national transportation system of the United States; and

(E) has endured serious funding cuts in recent years; and

(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.

SEC. 3. FUNDING FOR SMALL COMMUNITY AIR SERVICE.

Section 40117 of title 49, United States Code, is amended by adding at the end thereof the following:

''(j) ADDITIONAL FEE.—

''(1) IMPOSITION OF FEE.—Each eligible agency that may impose a passenger facility fee under this section shall impose a 10-cent fee under this subsection for each enplanement to provide funds to support a

national aviation system, rural airspace safety, and rural air service.

''(2) FEE TO BE SEPARATELY ACCOUNTED FOR.—The proceeds of fees imposed under this subsection shall be accounted for separately from the proceeds of any fee imposed under subsection (b).

''(3) FEES TO BE USED FOR SMALL COMMUNITY AIR SERVICE.—

''(A) IN GENERAL.—Fees collected under this subsection shall be immediately made available to the Secretary for use in carrying out the essential air service program under subchapter II of chapter 417 of this title.

''(B) DISPOSITION OF EXCESS FUNDS.—Any funds that are not obligated or expended at the end of the fund's fiscal year for the purpose of funding the essential air service program under such subchapter shall be made available to the Federal Aviation Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under subchapter II of chapter 417 of this title.

''(C) COMPENSATION OF AIR CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Secretary shall prescribe regulations under which any air carrier or its agent required to collect fees imposed under this section is permitted to retain, out of the amounts collected, an amount equal to the necessary and reasonable expenses (reduced by any interest earned on the deposit of such amounts during the period between collection and remittance) incurred in collecting and handling the fees.''.

SEC. 4. SECRETARY MAY REQUIRE MATCHING LOCAL FUNDS.

Section 41737 of title 49, United States Code, is amended by adding at the end thereof the following:

''(f) MATCHING FUNDS.—No earlier than 2 years after the date of enactment of the Rural Air Service Survival Act, the Secretary may require an eligible agency, as defined in section 40117(a)(2) of this title, to provide matching funds of up to 10 percent for any payments it receives under this subchapter.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this section shall take effect on the first day of October next occurring after the date of enactment of this Act.●

By Mrs. KASSEBAUM (for herself, Mr. DODD, and Mr. JEFFORDS):

S. 1400. A bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts; to the Committee on Labor and Human Resources.

THE ERISA CLARIFICATION ACT OF 1995

● Mrs. KASSEBAUM. Mr. President, I rise today along with Senator DODD and Senator JEFFORDS, to introduce the ERISA Clarification Act of 1995.

This legislation is designed to protect pension plan participants and beneficiaries by removing the threat of retroactive liability based on the way life insurance companies have historically organized and managed pension assets. Importantly, the legislation would not affect any ongoing civil action.

For nearly 20 years, the insurance industry relied on an interpretive bulletin issued by the Department of Labor, as well as an Internal Revenue Service ruling, which stated that assets held in an insurance company's general account were not considered plan assets under the Employee Retirement Income Security Act [ERISA]. In December 1993, however, the Supreme Court ruled in John Hancock versus Harris Trust that this long-standing practice of including pension assets as part of a general account could violate certain provisions of ERISA. The Court recognized that its decision created the possibility of serious disruptions in the way pension assets were managed. As such, it commented that problems arising from the decision should be addressed legislatively or administratively.

The Department of Labor is working closely with all parties to develop rules, consistent with Harris Trust, for dealing with prospective insurance company activities. However, without additional legislative authority, the Department of Labor may be unable to grant protection for retroactive activities which might expose insurance companies to significant liability and threaten the security of pension assets.

Mr. President, in the nearly 20 years before the Supreme Court's decision in Harris Trust—and in the 2 years since that decision—there has been little evidence that plan participants have been harmed by the insurance industry's long-standing practice of managing benefits, or that the insurance industry is especially prone to the problems of asset mismanagement that gave rise to ERISA. In fact, there were no enforcement proceedings initiated by the Department of Labor against insurers resulting from the mismanagement of pension assets prior to the Harris Trust decision.

I believe, however, that our failure to address this issue could threaten the safety and security of pension assets by exposing the insurance industry to millions of dollars of retroactive liability. Therefore, I believe we should consider, and enact, this important legislation as quickly as possible. I look forward to working with my cosponsors, and with other Members of this body, to do so.●

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1181

At the request of Mr. STEVENS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1181, a bill to provide cost savings in the medicare program through cost-effective coverage of positron emission tomography (PET).

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1233, a bill to assure equitable coverage and treatment of emergency services under health plans.

S. 1340

At the request of Mr. DASCHLE, the names of the Senator from Wyoming [Mr. THOMAS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1340, a bill to require the President to appoint a Commission on Concentration in the Livestock Industry.

S. 1370

At the request of Mr. CRAIG, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1370, a bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Energy and Natural Resources Committee to review the decisionmaking process of the Department of the Interior in preparing and releasing the U.S. Geological Survey [USGS] 1995 estimates for the 1002 areas of the Arctic National Wildlife Refuge [ANWR].

The hearing will take place on Tuesday, November 14 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Kelly Johnson or Joe Meuse at (202) 224–6730.